IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE M.H.S. ANSARI

AND
THE HON'BLE SRI JUSTICE T.Ch.SURYA RAO

WRIT PETITION No.4321 of 2005

Between:

M/s. Ruchi Infrastructure Limited, Beach road, Kakinada,
rep. by its Authorised Signatory Mr. P.V.S.R.G. Prasad,

..... PETITIONER

AND

1 The Commercial Tax Officer, Kakinada Division, Kakinada.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.
3 The Addl. Commissioner (CT), Legal, A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or any other appropriate writ or Order or direction quashing the order of the 3rd respondent in LV(3)/240/2005 dated 23.2.2005 as illegal, arbitrary and consequently restrain the 1st respondent from taking any coercive steps for collection of disputed Tax of Rs.3,03,059/- for the months April & June 2002 under CST Act and May 2002 under APGST Act respectively.

Counsel for the Petitioner: Mr.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents : G.P. FOR COMMERCIAL TAXES

The Court at admission stage made the following :

ORDER: (per Sri Justice T.Ch.Surya Rao)

The instant writ petition is directed against the order dated 23-2-2005 passed by the Additional Commissioner (CT), Legal, Hyderabad.

The petitioner seems to have claimed certain sales tax incentives on the products being manufactured in its industrial unit by virtue of a Government Order. The petitioner was not granted certain incentives on the premise that the eligibility certificate has not included the bye-products and, therefore, the petitioner is not entitled to any such incentives. Having been aggrieved by the assessment orders passed by first respondent, it preferred appeals to the Appellate Deputy Commissioner (CT), Visakhapatnam, where the appeal also ended in dismissal. During the pendency of the appeal, the petitioner filed an application for stay, which was rejected, and thereupon it approached third respondent for grant of stay. Under the impugned order, having regard to the above fact, the learned third respondent also rejected the stay application filed by the petitioner.

We have heard the learned counsel for the petitioner and the learned Govt. Pleader for Commercial Taxes.

Without adverting to the merits of the case, as the same will have to be decided in the appeal filed by the petitioner, which is now pending adjudication before the appellate Tribunal, we are inclined to dispose of the writ petition with the usual order and directions. The petitioner shall pay 50% of the disputed tax giving credit to the amount paid while preferring the appeal, on or before 31st March 2005, in which event, the appeal filed by the petitioner shall have to be heard and disposed of in accordance with law by passing appropriate orders. Till then, collection of the balance disputed tax shall be stayed.

The writ petition is disposed of accordingly with the above directions, but in the facts and circumstances, with no order as to costs.

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(M.H.S.ANSARI, J.)

7th March 2005.

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(T.Ch.SURYA RAO, J.)

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To

1 The Commercial Tax Officer, Kakinada Division, Kakinada.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.

3 The Addl. Commissioner (CT), Legal, A.P., Hyderabad.

4. Two C.Cs to Govt. Pleader for Commercial Taxes, High Court Bldgs., Hyderabad (OUT).

5 Two CD copies.